

# **STUPAK-BOUCHER DEMOCRATIC SUBSTITUTE**

## ***REAL PROTECTION FOR CONSUMERS***

Democrats seek to address two major problems identified by Hurricanes Katrina and Rita and their aftermath, rather than reopen significant portions of the Energy Policy Act of 2005 before it has had a chance to work.

### **GASOLINE PRICE-GOUGING AUTHORITY**

#### **PROVIDES FOR THE FIRST TIME REAL PROTECTION FROM PRICE GOUGING**

Currently the Department of Energy (DOE ) and the Federal Trade Commission (FTC) monitor gasoline prices and consumer complaints about possible price-gouging. However, though the FTC can punish collusive or anti-competitive industry practices, neither it or any other Federal agency has authority to deter and punish price-gouging.

The substitute gives the FTC new authority to deter and punish certain practices during any presidentially declared “energy emergency” of either a national or regional character. Specifically, it bars any party from selling crude oil, gasoline, natural gas, or petroleum distillates at a price that (1) is “unconscionably excessive” or (2) indicates the seller is “taking unfair advantage of the circumstances to increase prices unreasonably.” The substitute also broadly bars other forms of market manipulation that affect prices for these commodities.

#### **THOSE THAT TAKE ADVANTAGE OF CONSUMERS WILL PAY**

Violations of these new standards constitute unfair or deceptive acts or practices under the FTC Act. The Commission’s existing enforcement authority applies, and the language also provides for additional civil penalties and treble damages for unjust profits. Such monetary penalties are to be distributed through Low-Income Home Energy Assistance Program.

The substitute authorizes States to bring civil actions on behalf of their residents, unless the FTC had already commenced enforcement action, and does not bar other State price-gouging authority.

#### **FTC WILL MONITOR PRICES TO PROTECT CONSUMERS**

The substitute requires the FTC to facilitate price transparency in petroleum products. The FTC must use the information to protect the public from anti-competitive behavior. In addition, the FTC must report to Congress on the price impacts of various types of supply disruptions for crude oil, residual fuel oil, and refined petroleum products. It also directs the Secretary of Energy and the Energy Information Administration to review preparations by U.S. oil industry to protect the energy supply system from terrorist attacks, natural disasters, and other supply disruptions.

## **STRATEGIC REFINERY RESERVE**

### **INCREASES REFINERY CAPACITY USING SUCCESSFUL MODEL**

The substitute creates the Strategic Refinery Reserve (SRR), building on the successful Strategic Petroleum Reserve (SPR) by providing the Nation with the ability to produce refined product for the country during extreme situations. The Secretary of Energy is directed to establish and operate a Strategic Refinery Reserve. In doing so, the Secretary may design and construct new refineries or acquire and reopen previously closed facilities. The SRR is required to be designed to produce 5 percent of daily demand for gasoline.

The Secretary is required to submit an implementation plan to the Congress within six months of enactment detailing how the SRR will be established within a two-year time frame. In determining sites for potential SRR refineries the Secretary is required to consider several factors, including impacts on local communities, regional vulnerability to natural disasters or terrorists attacks, and access to energy infrastructure, among other things.

### **ADDRESSES ENERGY EMERGENCY SITUATIONS**

During emergencies the Secretary is authorized to make SRR products available based on two criteria: (1) the same severe supply disruption criteria used to trigger the SPR in the Energy Policy and Conservation Act; or (2) upon a Presidential determination of a regional petroleum supply shortage.

During non-emergency times the SRR will provide refined product to the Federal fleet, including the Department of Defense. This provision provides the following benefits: (1) insures that the Federal fleet and military needs are met; (2) lessens start-up time for SRR refineries to ramp-up to full production during emergencies since they will not be starting cold; and (3) lessens demand for refined product in the consumer market, thereby freeing additional supply and decreasing price pressures.